

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION

In the matter of:)	Complaint No. 00-32
)	for
Orange County Public Facilities and)	Administrative Civil Liability
Resources Department)	
300 N. Flower Street)	
Santa Ana, CA 92702)	
Attention: Vicki L. Wilson)	

YOU ARE HEREBY GIVEN NOTICE THAT:

1. You are alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Santa Ana Region (hereinafter Board), may impose liability under Section 13385 of the California Water Code.
2. A hearing concerning this Complaint will be held before the Board within sixty days of the date of issuance of this Complaint. The hearing in this matter will be scheduled for the Board's regular meeting on May 19, 2000, at the City Council Chambers, City of Loma Linda. You or your representative will have an opportunity to appear and be heard, and to contest the allegations in this Complaint and the imposition of civil liability by the Board. An agenda for the meeting will be mailed to you not less than 10 days before the hearing date.
3. At the hearing, the Board will consider whether to affirm, reject or modify the proposed administrative civil liability or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
4. The Orange County Public Facilities and Resources Department (Department) is the principal permittee under the Orange County Areawide Urban Storm Water Runoff Permit, Waste Discharge Requirements Order No. 96-31, NPDES No. CAS618030 (Permit), adopted by the Board on March 8, 1996, and is subject to the terms of that Permit.
5. On February 8, 2000, Department employees are alleged to have pumped black, odorous wastewater containing pollutants, from a storm water lift station in Seal Beach into a storm drain on the Seal Beach Naval Weapons Station property. This storm drain empties directly into Anaheim Bay.
6. An employee from the Seal Beach Naval Weapons Station (Base) observed the black discharge and reported it to the authorities at the Base. The Base Environmental Coordinator, Base Fire Department, and Base Security responded to the incident. Base personnel determined that the discharge was coming from the County's lift station

and contacted the onsite Department employees in an effort to stop the discharge. The Department employees refused to stop the discharge. Base personnel then contacted the Department's Environmental Manager, its industrial inspector, Orange County Health Care Agency and Regional Board staff. Base personnel also collected samples of the discharge and took photographs.

7. Board staff inspected the site on February 9, 2000 and observed black stains from the discharge. On February 16, 2000, Board staff met with a Department employee (the employee who was in charge of the field operations at Seal Beach on February 8, 2000) at the site. This employee indicated that the County generally cleans out the lift station bi-monthly during the dry season and monthly during winter. The lift station is approximately 50'x40'x20', divided into two chambers with a sump in one chamber, a grate to retain large solids and two sump pumps and one submersible pump. During the cleaning operations, a vacuum truck is used to collect the solids retained on the grate. The sump and grate are then washed down to remove grease, scum, and other materials. Then the submersible pump (pump capacity: 500 gallons per minute) is used to pump out the material collected in the sump including the wash water. This discharge enters a storm drain which discharges directly into Anaheim Bay.
8. On February 8, 2000, Department employees discharged, at a minimum, 11,000 gallons of storm water/non-storm water to Anaheim Bay. The analytical results of the discharge indicate that it contained high levels of bacteria, metals, suspended solids and other pollutants.
9. The Department violated the Permit by intentionally discharging pollutants to waters of the U.S. (Discharge Limitations III.2 and 5), by failing to properly train Department employees in pollution prevention techniques with regard to public agency activities and facilities (Finding 22/Provision V.22), and by failing to report the discharge of pollutants in violation of the permit conditions.
10. Section 13385(a)(2) provides that any person who violates waste discharge requirements shall be civilly liable. Section 13385 (c) provides that civil liability may be administratively imposed by a regional board in an amount not to exceed ten thousand dollars (\$10,000) for each day the violation occurs. Where there is a discharge, an additional liability of \$10 per gallon may also be imposed for that portion of the discharge above 1,000 gallons which was not cleaned up. In this case, none of the discharge was cleaned up; therefore, the penalty applies to 10,000 gallons (11,000-1,000=10,000).
11. Pursuant to Section 13385, the Department is civilly liable in the maximum amount of \$110,000 (1 day of Permit violation+10,000 gallon discharge).
12. Department employees were negligent, were not properly trained, and apparently did not consider the consequences of discharging pollutants to waters of the U.S. even after a warning from the Base personnel. If the employees were properly trained and if they had used the vacuum truck for proper disposal of the accumulated wastes in the

sump, the discharge of pollutants to waters of the U.S. could have been prevented. It would have cost the Department a maximum of \$10,000 for the proper pumping and disposal of this material. Board staff spent approximately 65 hours in responding to this incident, followup, and for enforcement action. These factors were considered in establishing the amount of civil liability specified in Item 13., below.

13. Section 13385 (e) specifies factors that the Board shall consider in establishing the amount of civil liability. After consideration of those factors, the Executive Officer proposes civil liability be imposed on the Department by the Board in the amount of \$50,000 for the violation cited above.
14. The Executive Officer further proposes to suspend \$15,000 of this assessment if the Department complies with the following:
 - a) By April 17, 2000, submit a plan, satisfactory to the Executive Officer, describing the Department's plans and schedules for training Department and co-permittee employees to assure implementation of pollution control techniques for public agency activities and facilities and spill prevention techniques.
 - b) Implement the training plan as approved by the Executive Officer.
15. Any violation of the time schedules approved by the Executive Officer will be brought before the Board for its review. If the Board determines that the Department violated the settlement terms of this Administrative Civil Liability Complaint, the suspended amount of \$15,000 shall become due and payable immediately.

WAIVER OF HEARING

You may waive your right to a hearing. If you wish to waive the hearing, the Department shall pay either \$50,000 or \$35,000 as described below:

1. If the Department does not agree to the suspension conditions specified in Paragraph 14, above, the assessment shall be \$50,000.
2. If the Department accepts the suspension conditions specified in Paragraph 14, above, the payable portion of the assessment shall be \$35,000.

If you wish to accept Option 1 or 2, above, please sign the attached waiver form and return it, together with a check or money order payable to the State Water Resources Control Board for the amount of civil liability proposed under Option 1 or 2 to the:

Santa Ana Regional Water Quality Control Board
3737 Main Street, Suite 500
Riverside, CA 92501-3339

If you have any questions, please contact Mark Smythe at 909-782-4998 or Michael Adackapara at (909) 782-3238, or contact the Regional Board's staff counsel, Ted Cobb at (916) 657-0406.

Date

Gerard J. Thibeault
Executive Officer

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)	for
Orange County Public Facilities))	Administrative Civil Liability
and Resources Department))	
300 N. Flower Street))	
<u>Santa Ana, CA 92702)</u>)	

WAIVER OF HEARING

(check one of the following boxes)

- ☐ I agree to waive the Orange County Public Facilities and Resources Department's right to a hearing before the Santa Ana Regional Water Quality Control Board with regard to the violations alleged in Complaint No. 00-32. I have enclosed a check, made payable to the State Water Resources Control Board, in the amount of \$50,000. I understand that I am giving up the Department's right to be heard and to argue against allegations made by the Executive Officer in this complaint, and against the imposition of, and the amount of, the liability proposed.

- ☐ I agree to waive the Orange County Public Facilities and Resources Department's right to a hearing before the Santa Ana Regional Water Quality Control Board with regard to the violations alleged in Complaint No. 00-32. I have enclosed a check, made payable to the State Water Resources Control Board, in the amount of \$35,000. I understand that I am giving up the Department's right to be heard and to argue against allegations made by the Executive Officer in this complaint, and against the imposition of, and the amount of, the liability proposed. I also understand that if the terms and conditions for suspension of a portion of the assessment are violated, the Department will be liable for an additional \$15,000.

Date

for the Orange County Public Facilities and
Resources Department